

REMARKS

Reconsideration and reexamination of this application is respectfully requested.

1. The Office Action has stated that, unless an information disclosure statement listing references in the application are listed on an IDS form, the references will not be considered. Applicants elects not to submit the IDS form. Applicant refers the Examiner to earlier telecons between the Examiner and the undersigned.
3. Objection to the drawings:-- A copy of the drawing, annotated in accordance with pto requirements, is enclosed herewith.
4. Grammatical errors in the specification.

The applicant has reviewed the specification and discovered several sentences ending with double periods. These errors are removed by the enclosed amendment to the specification.

Examiner has objected to the drawings as not including reference 36.

Applicant encloses herewith an ANNOTATED DRAWING in accordance with required Patent Office Procedure for correcting drawings having the required amendment.

Examiner states: (in the Office Action dated 6/24/04)

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being obvious over Elze et al in view of Farrell.

"Elze et al disclose a dunnage bag having a mesh ply folded in the shape of the claims. However, Elze et al do not expressly disclose that the mesh ply could be replaced with a paper panel.

Farrell et al disclose a dunnage bag comprising an inflated plastic air bag contained within a paper panel container sheets (sheets 30, 32; col. 3 line 21) placed between cargo (26, 28) in a truck bed.

Applicant submits:

Applicant submits herewith a terminal disclaimer resulting in the life of any patent issued from the present application will not extend beyond the life of U.S. Patent 6,527,488 B2.

Regarding Farrell----

Farrell states (col. 3, line 21)

" The container is formed of two sheets 30, 32, comprised of multiple layers of suitable material such as paper), usually 4 to 8 plies. The sheets are joined at the edges of the sheets 30, 32 along top seams 34."

The Applicant submits:

The Farrell invention does not anticipate the problem solved by the Applicants invention, namely to construct the bag to minimize swelling of the unsupported surface of the bag toward the ceiling.

The entire position taken by the PTO in granting patent 6,527,488 to Elze et al resides in the novel construction of the mesh outer bag. Namely the outer bag has a MATTRESS CONSTRUCTION: Similarly, the Applicant claims a PAPER bag that has a MATTRESS constuction.

said outer bag comprising a main paper panel folded to form two broad sides, a bottom side and a top side with two opposite edges glued together to form a tube having two end edges; and

a pair of rectangular side paper panels, one of said side panels having an edge secured to one of said end edges of said tube and another one of said side panels having an edge secured to said another one of said end edges of said outer bag comprises extensible Kraft paper, grade range between 40 to 90 pounds [.]

said tube operable arranged to provide that said outer bag is formed having a substantially mattress shape when positioned in

said space between said rows of cargo and said inner bag is filled with pressurized air.

Farrell makes no claim or suggestion of a mattress construction. He claims only two sheets with edges of one sheet glued to edges of the other sheet. This construction is a key to the present construction because, as explained in the specification, the mattress construction limits the swelling of the bag toward the ceiling and thereby provides a greater footprint than can be achieved with the Farrell construction.

In view of these arguments, it is believed that any rejection citing Farrell as prior art has been overcome and that claim 7 is in condition for allowance. All remaining claims depend from claim 7 and should be allowed for at least the same reasons as for allowing claim 7.

Allowance of all remaining claims is earnestly solicited.

Respectfully submitted.

A handwritten signature in black ink, appearing to read "Robert P. Smith".

I certify that I have placed this document in an envelope addressed to the Commissioner of Patents and deposited it with the United States Postal Service on _____